

PIPELINES (AMENDMENT) BILL 1985

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Land and Environment Court (Pipelines) Amendment Bill 1985 is cognate with this Bill.

The objects of this Bill are—

- (a) to enable the Minister administering the Pipelines Act 1967 (“the Principal Act”) to delegate certain functions under the Principal Act to the General Manager of the Energy Authority;
- (b) to enable the licensing provisions of the Principal Act to be extended to certain kinds of pipeline that are not presently required to be the subject of a licence;
- (c) to enable the Minister to appoint committees to provide advice in relation to the granting of permits and licences under the Principal Act;
- (d) to enable the Minister to grant “authorities to survey” to persons intending to construct pipelines;
- (e) to vary the provisions of the Principal Act with respect to the manner in which the environmental impact of a proposed pipeline will be considered when an application for a permit under the Principal Act is being determined;
- (f) to enable the creation of “restrictions as to user” in relation to lands the subject of a licence under the Principal Act;
- (g) to provide for the extinguishment of certain easements and restrictions as to user in force under the Principal Act;
- (h) to provide for the holding of inquiries into matters relating to the design, construction, operation, and maintenance of pipelines and for the obtaining of evidence in relation to such inquiries;
- (i) to enable an inspector to prohibit persons from carrying out, on lands the subject of a licence, activities which are likely to damage a pipeline;
- (j) to increase various penalties imposed by the Principal Act;
- (k) to make certain amendments to the Principal Act by way of statute law revision;

- (l) to make certain other amendments of a minor, ancillary or consequential nature; and
 - (m) to enact certain savings, transitional and other provisions.
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Clause 1 specifies the short title of the proposed Act.

Clause 2 consists of a commencement provision for the purposes of the proposed Act. Aside from the provisions of Schedule 2 (which are to commence on such day or days as the Governor-in-Council may appoint), the proposed Act will commence on the date of assent to the proposed Act.

Clause 3 defines the Principal Act.

Clause 4 lists the Schedules to the proposed Act.

Clause 5 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Clause 6 is a formal provision that gives effect to the Schedule of savings, transitional and other provisions.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO THE DELEGATION OF FUNCTIONS OF THE MINISTER

Schedule 1 (1) (a) inserts a definition of "Authority" (meaning the Energy Authority of New South Wales) into section 3 (1) of the Principal Act.

Schedule 1 (1) (b) omits from section 3 (1) of the Principal Act the definitions of "Registrar" and "Under Secretary".

Schedule 1 (1) (c) inserts a minor interpretation provision into section 3 (1) of the Principal Act consequent upon the insertion into Part I of the Principal Act by Schedule 1 (2) of a proposed section 4A.

Schedule 1 (2) inserts into Part I of the Principal Act a new section 4A which provides for the delegation to the General Manager of the Energy Authority of certain of the Minister's functions under the Principal Act.

Schedule 1 (3)—(9) make minor amendments to sections 37, 38, 41, 42, 43, 45, 47, 53 and 57 of the Principal Act consequent upon the amendments made by Schedule 1 (1) and (2).

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

Schedule 2 (1) (a) amends the definition of "apparatus or works" in section 3 (1) of the Principal Act so as to ensure that certain fittings and structures come within the ambit of that definition.

Schedule 2 (1) (b) inserts a definition of “authority to survey” into section 3 (1) of the Principal Act consequent upon the insertion into Part II of the Principal Act by Schedule 2 (6) of a proposed Division 1.

Schedule 2 (1) (c) amends the definition of “permit” in section 3 (1) of the Principal Act consequent upon the insertion into Part II of the Principal Act by Schedule 2 (6) of a proposed Division 1.

Schedule 2 (1) (d) inserts a definition of “pipeline committee” into section 3 (1) of the Principal Act consequent upon the insertion into the Principal Act by Schedule 2 (4) of a proposed Part IA.

Schedule 2 (2) amends section 5 (1) of the Principal Act consequent upon the insertion into Part I of the Principal Act by Schedule 2 (3) of a proposed section 5A.

Schedule 2 (3) inserts 2 new sections into Part I of the Principal Act:

- (a) Proposed section 5A enables the Minister to make an order that has the effect of requiring a licence to be obtained in respect of certain kinds of pipeline for which, but for the order, a licence would not otherwise be required.
- (b) Proposed section 5B enables the Minister to make an order requiring the operator of certain kinds of pipeline to furnish the Minister with specified kinds of information.

Schedule 2 (4) inserts a new Part IA (containing 2 new sections) into the Principal Act:

- (a) Proposed section 5C enables the Minister to appoint committees, constituted by members nominated by various public authorities, for the purpose of advising the Minister in relation to the granting of permits and licences under the Principal Act.
- (b) Proposed section 5D sets out the functions of a committee appointed under the proposed section 5C.

Schedule 2 (5) amends the heading to Part II of the Principal Act consequent upon the insertion into that Part by Schedule 2 (6) of a proposed Division 1.

Schedule 2 (6) inserts a new Division 1 (containing 4 new sections) into Part II of the Principal Act:

- (a) Proposed section 5E enables persons desiring to construct a pipeline to apply to the Minister for an authority to enter lands for the purpose of investigating possible routes for the proposed pipeline.
- (b) Proposed section 5F provides for the granting of authorities to survey.
- (c) Proposed section 5G provides for the terms and conditions of authorities to survey granted under proposed section 5F.
- (d) Proposed section 5H sets out the rights conferred by an authority to survey granted under proposed section 5F.

Schedule 2 (7) inserts a Division heading into Part II of the Principal Act consequent upon the insertion into that Part by Schedule 2 (6) of a proposed Division 1.

Schedule 2 (8) amends section 8 of the Principal Act so as to provide that the provisions of Part V of the Environmental Planning and Assessment Act 1979 shall apply to the granting of a permit under Part II of the Principal Act.

Schedule 2 (9) amends section 12 (1) of the Principal Act so as to extend the period of time, from 6 months to 12 months, within which an application for a licence under Part III of the Principal Act must be made following the expiration of a permit under Part II of the Principal Act.

Schedule 2 (10) amends section 20 (1) of the Principal Act so as to require the lodgment, at the office of the Registrar-General, of instruments setting out any restrictions as to user to be imposed in respect of certain easements.

Schedule 2 (11) substitutes section 21 (1) and (2) of the Principal Act so as to provide for the creation of restrictions as to user in respect of easements proposed to be created by notification published in the Gazette by the Governor-in-Council.

Schedule 2 (12) inserts a proposed section 21A into the Principal Act so as to provide for the extinguishment of certain easements and restrictions as to user following the variation of lands the subject of a licence under Part III of the Principal Act.

Schedule 2 (13) amends section 24 of the Principal Act so as to ensure that the defences available under that section in relation to the failure to operate a pipeline apply where the licensee of the pipeline is complying with certain directions under the Principal Act.

Schedule 2 (14) inserts 2 new sections into Part III of the Principal Act:

- (a) Proposed section 31A provides for the conduct by the Energy Authority of inquiries in relation to the design, construction, operation and maintenance of pipelines.
- (b) Proposed section 31B provides for the powers of any person conducting an inquiry under proposed section 31A with respect to the obtaining of evidence.

Schedule 2 (15) inserts a proposed section 33A into Part III of the Principal Act so as to provide for the extinguishment of certain easements and restrictions as to user following the surrender or cancellation of a licence under that Part.

Schedule 2 (16) amends section 37 (1) of the Principal Act so as to increase the amount of the fee referred to in that subsection from \$100 to \$200.

Schedule 2 (17) amends section 40 of the Principal Act so as to ensure that the provisions of the Environmental Planning and Assessment Act 1979 do not, in general, apply to or in respect of any matter relating to the construction or operation of a pipeline.

Schedule 2 (18) (a) substitutes section 42 (3) of the Principal Act so as to require an application for the approval of a transfer of a permit or licence to be accompanied by certain particulars in relation to the proposed transferee.

Schedule 2 (18) (b) amends section 42 (5) of the Principal Act so as to ensure that the transfer of a licence may not be approved unless satisfactory arrangements have been made for the acquisition by the transferee of the lands, or easements over the lands, along which the pipeline is situated.

Schedule 2 (19) amends section 43 (2) of the Principal Act so as to provide that the fee referred to in that subsection shall be as prescribed by regulations under the Principal Act.

Schedule 2 (20) substitutes section 45 (4) of the Principal Act so as to require an application for registration of various kinds of instrument creating interests in a permit or licence to be accompanied by certain particulars in relation to the person in whom those interests are proposed to be vested.

Schedule 2 (21) amends section 50 (2) of the Principal Act so as to clarify the circumstances under which the Minister may refuse to allow the inspection of certain instruments kept in the register under the Principal Act.

Schedule 2 (22) inserts a proposed section 58A into Part V of the Principal Act so as to enable the Minister to require certain public authorities to exercise certain functions within specified times and to empower those public authorities to comply with any such requirement.

Schedule 2 (23) inserts 3 new sections into Part V of the Principal Act:

- (a) Proposed section 60A enables an inspector under the Principal Act to prohibit persons from carrying out, on lands the subject of a licence, any activity which is likely to damage a pipeline. Such a prohibition will operate for a period of 14 days unless it is confirmed by the Energy Authority which may also vary or revoke the prohibition.
- (b) Proposed section 60B enables a person whose interests are affected by a prohibition under proposed section 60A to appeal to the Land and Environment Court against the prohibition.
- (c) Proposed section 60C ensures that an inspector under the Principal Act is not personally liable for acts or omissions done or omitted to be done by the inspector in good faith in the exercise of the functions conferred or imposed on the inspector by or under the Principal Act.

Schedule 2 (24) amends section 69 of the Principal Act so as to enable regulations to be made with respect to the circumstances under which pipelines shall cease to be operated and with respect to the carrying out of surveys under that Act.

SCHEDULE 3—AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO PENALTIES

This Schedule amends sections 11, 23, 24, 26, 27, 28, 35, 46, 48, 49, 59, 60, 64, 65, 68 and 69 of the Principal Act so as to increase the penalties imposed in respect of offences arising under those respective sections.

**SCHEDULE 4—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION**

This Schedule amends sections 3, 13, 18, 38 and 69 of the Principal Act so as to effect minor amendments by way of statute law revision.

SCHEDULE 5—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

This Schedule includes—

- (a) savings provisions, in relation to the register kept under Part IV of the Principal Act, that arise as a consequence of the amendments to be made by Schedule 1 (clause 1);
 - (b) a transitional provision that excludes certain applications for permits from the effect of the amendments to be made by Schedule 2 (8) (clause 2);
 - (c) a transitional provision that excludes certain applications for transfers of permits and licences from the effect of the amendments to be made by Schedule 2 (18) (clause 3);
 - (d) a transitional provision that excludes certain applications for registration of instruments creating interests in licences from the effect of the amendment to be made by Schedule 2 (20) (clause 4);
 - (e) a validation of certain instruments that purport to have created easements under section 61 of the Principal Act (clause 5); and
 - (f) a power to make regulations for further savings and transitional provisions (clause 6).
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